

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

ORDER

**Pancha Ram vs. State of Rajasthan &
Ors.**

(S.B.Civil Writ Petition No. 7997/07)

Dated:- 07.12.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. T.C. Sharma, for the petitioner.

BY THE COURT:-

This writ petition is directed against notice dated 22.10.2007 issued by the Chief Executive Officer, Zila Parishad , Jalore, whereby the meeting of Gram Panchayat, Sarwana was convened for consideration of no-confidence motion against the petitioner, the Sarpanch of the said Panchayat.

It is contended by the learned counsel appearing on behalf of the petitioner that the notice of the meeting convened for the consideration of no-confidence motion, issued by the Chief Executive Officer, Zila Parishad, Jalore is not in conformity with the provisions of Section 37 (3) of the Rajasthan Panchayati Raj Act, 1994 (in short 'the Act of 1994' hereinafter) read with Rule 21 of the Rajasthan Panchayati Raj Rules, 1996 (in short 'the Rules of 1996' hereinafter). There is absolutely no foundation of facts in the writ petition as to how the provisions of Section 37

(3) of the Act of 1994 or Rule 21 of the Rules of 1996 stand violated. However, in ground (V), it is alleged that the notice has not been sent to the petitioner by the competent authority under a certificate of posting, therefore, the provisions of Rule 21 of the Rules, 1996 stand violated.

It is not in dispute that the notice dated 22.10.2007, issued by the Chief Executive Officer, Zila Parishad, Jalore of the meeting scheduled to be held on 07.11.2007 for consideration of no-confidence motion, was duly received by the petitioner. There is no averment in the petition as to when and in what manner the notice was served upon the petitioner. As per the provisions of Section 37 (3) (iii) of the Act of 1994, the members are required to be served with the notice of not less than seven clear days of such meeting in such manner as prescribed. It is not the case of the petitioner that the notice served was of the period less than seven days. Assuming that the notice was not dispatched by the competent authority under certificate of posting then too such deviation from the procedure prescribed in no manner can invalidate the proceedings taken for consideration of no-confidence motion, particularly when service of the notice is not in dispute. It is to be noticed that as per proviso to sub-rule 2 of the Rule 21 of the Rules, 1976 in case of a place where there is no post-office or where service of notice cannot be effected expeditiously, such notice shall be served through the Tehsildar concerned. Thus, the provision of Rule 21

(2) so far as relates to the manner in which service of the notice is to be effected is only directory and on that account the proceedings taken for consideration of the no-confidence motion cannot be declared illegal. Obviously, by the manner in which the service is effected no prejudice has been caused to the petitioner. On being asked by the Court, the learned counsel informs that the motion already stands carried out against the petitioner. The majority having voted against the petitioner, at this stage, the petitioner cannot be permitted to assail the validity of proceedings on the grounds raised as aforesaid.

In this view of the matter, the writ petition is devoid of any merit. It is hereby dismissed. No order as to costs.

(SANGEET LODHA),J.